

REMARKS

Claims 18-29 and 33-43 are all the pending claims prior to the present Amendment. Claim 44 is newly added and is supported in the present specification at, e.g., page 10, lines 5-15. No new matter is added. Entry is respectfully requested.

In the Office Action of January 22, 2010, the Office maintained the rejection of claims 18, 21, 24, 27, 33, and 36-38 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Lang, Sanigorski, and Yazawa in view of Makula and Koffas.

Applicants continue to rely on the arguments set forth in the Response Under 37 C.F.R. § 1.116 filed on July 22, 2010 in response to this rejection, which arguments are hereby incorporated by reference.

Applicants reiterate the Office has failed to establish why one skilled in the art would have been motivated to combine or modify the teachings of cited prior art to produce the claimed invention.

Further, Applicants submit that the cited prior art includes a number of contradictory teachings that –although mostly unacknowledged by the Office– weigh heavily against combining the references in the first place. *See*, e.g. the Yazawa (II) reference (as previously supplied by Applicants) and the evidence on record suggesting that methanotropic bacterial phospholipoids do not comprise any significant amount of EPA. Accordingly, one skilled in the art would not have had any reasonable expectation of success because Yazawa (II) teaches that the Lang biomass is not capable of producing an EPA-containing PE.

Coupled with the above knowledge (that not all PE contains EPA (per Yazawa (II)) and further in view of the general thinking that administration of saturated or monounsaturated fatty acids was generally believed to increase cholesterol levels, Applicants submit that one skilled in

the art would not have been motivated to combine or modify the teachings of cited prior art to produce the claimed invention.

Ultimately, whether because there is (1) no motivation to combine the references, or (2) no reasonable expectation of success, the Office has failed to set forth a *prima facie* case of obviousness.

New claim 44 is responsive to the Office's comment on page 8 of the January 22, 2010 Office Action that "instant claim 18 discloses nothing with regard to the extraction of a lipid component as cited in the current set of arguments...[t]hus any reference teaching the feeding of PE to animals would be expected to achieve the same effects as taught in the present invention." Applicants submit that this claim is patentable over Lang, Sanigorski, and Yazawa in view of Makula and Koffas..

For at least the above reasons, Applicants respectfully request withdrawal of the rejection of claims 18, 21, 24, 27, 33, 36-38, and 44 under 35 U.S.C. § 103(a) over Lang, Sanigorski, and Yazawa in view of Makula and Koffas.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

AMENDMENT UNDER 37 C.F.R. § 1.114(c)
Appln. No.: 10/563,110

Attorney Docket No.: Q92287

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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